

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
CRIMINAL CASE NO. 1:15-cr-00007-MR-DLH**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>vs.</b>	)	<b><u>ORDER</u></b>
	)	
<b>GORDIE LEROY PENSON,</b>	)	
	)	
<b>Defendant.</b>	)	
<hr style="width:45%; margin-left:0"/>	)	

**THIS MATTER** is before the Court upon the Defendant's Motion to Secure Documents Concerning Jury Pool [Doc. 65].

The Defendant was found guilty by a jury of committing a Hobbs Act robbery, discharging a firearm in relation to a crime of violence, and possessing a firearm after having been convicted of a felony. [Doc. 36]. He was sentenced to a total of 161 months' imprisonment. [Doc. 46]. The Defendant has appealed his conviction and sentence to the Fourth Circuit Court of Appeals [Doc. 48], and that appeal is currently pending.

The Defendant's appellate counsel now moves this Court to provide him with "documentation by the Clerk concerning the jury pool employed at" the Defendant's trial. [Doc. 65 at 1]. For grounds, counsel states that the

Defendant has requested that counsel challenge on appeal the racial composition of the jury pool. [Id.].

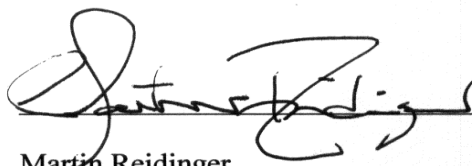
The Defendant's request for the production of documents related to the jury pool must be denied. Trial counsel never raised any issue regarding the racial composition of the jury pool at trial, and therefore, no documents regarding the creation of such pool were ever made part of the trial record. Because no objection was ever raised at trial regarding the racial composition of the jury pool, this issue has not been properly preserved for appeal. See Ford v. Georgia, 498 U.S. 411, 422-23 (1991); Morning v. Zapata Protein (USA), Inc., 128 F.3d 213, 216 (4th Cir. 1997). Moreover, the Court notes that the Defendant's appellate brief was filed with the Fourth Circuit Court of Appeals on August 29, 2016, and that no issue regarding the racial composition of the jury pool was asserted therein. Accordingly, the Defendant's request appears to be moot.

For all of these reasons, the Defendant's motion is denied.

**IT IS, THEREFORE, ORDERED** that the Defendant's Motion to Secure Documents Concerning Jury Pool [Doc. 65] is **DENIED**.

**IT IS SO ORDERED.**

Signed: September 1, 2016

  
Martin Reidinger  
United States District Judge

